

PROPOSED LIEN ON MOBILE HOMES

Revenue Laws Study Committee

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Section 3 of Senate Bill 1309 provides for a tax lien on a mobile home listed as personal property and on all real property owned by the taxpayer in the taxing unit on the date the mobile home is listed. Senate Bill 1309 passed the House and is currently in Senate Finance. This same language is in Part II of Proposal #2.

Current Law

Definition of mobile home: For property tax purposes, a mobile home means a manufactured home as described in G.S. 105-273(13) or a structure designed, constructed, and intended for use as a dwelling house, office, place of business, or similar place of habitation and capable of being transported from place to place on wheels attached to its frame.² A mobile home can be considered real property or personal property.

When is a manufactured home real property?

Under G.S. 105-273(13), a manufactured home is considered real property if it satisfies all of the following requirements:

1. It is a residential structure;
2. The moving hitch, wheels, and axles have been removed;
3. It is placed on a permanent foundation; and
4. It is situated on land owned by the owner of the home or on land in which the owner of the home has a lease with a term of at least 20 years and that provides for disposition of the home upon termination of the lease.

When is a manufactured home personal property?

The manufactured home is considered personal property if does not meet all of the above real property requirements.

What happens when a mobile home is moved or sold in North Carolina?

Under current law, anyone other than a manufacturer, retailer, or licensed carrier of mobile homes, must obtain a permit from the county tax collector before moving a mobile home.³ When applying for the permit, the applicant must do one of the following: (a) pay all taxes due to be paid by the owner of the mobile home, (b) show proof that no taxes are due, or (c) demonstrate that removal of the mobile home will not jeopardize the collection of taxes. The applicant must also provide his name and address, the current location of the mobile home, the future location of the mobile home, and the mover. There is no charge for the permit.

If a holder of a lien is repossessing a mobile home, the lienholder must apply for the permit and inform the tax collector of the location to which the home is to be taken. If

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² Trailers and vehicles required to be registered annually fall outside the definition of mobile homes.

³ It is a Class 3 misdemeanor for failure to obtain a permit. 200 permits were issued in 2006.

the lienholder is a North Carolina resident, the taxes must be paid within seven days of issuance of the permit. Nonresident lienholders must pay the taxes at the time of application for a permit.

What are the remedies for nonpayment of property tax?

If taxes are not paid on the mobile home, the tax collector may go against the taxpayer by garnishing wages, attaching bank accounts, and using debt setoff. The tax collector may levy on the home by taking possession and selling the home if the taxpayer owns the home. When the mobile home is considered real property, then the unpaid taxes are a lien on the mobile home and a subsequent purchaser of the mobile home is also liable for unpaid taxes.

What happens if there is nonpayment of property taxes on a mobile home considered personal property?

Counties have encountered frequent situations where a mobile home has been repossessed and sold on site or where the mobile home is sold and moved without a permit issued by the county tax collector. Often tax collectors are not aware of the sales until after they are completed and the former owner has disappeared. Once the mobile home is transferred to a new owner for value, the county's ability to collect taxes due by levy and sale expires. The county tax collector has no recourse against the present owner if the mobile home is listed as personal property. The county could garnish the former owner's wages, but usually the whereabouts of the former owner are unknown.

Proposal #2

The language in Proposal #2 would remedy the above problem by providing that a tax lien attaches to a mobile home listed as personal property and to all real property of the taxpayer in the taxing unit on the date the mobile home is listed (January 1). Once the lien has attached, its priority is not affected by transfer of title, by death, or by receivership of the property owner. In other words, the delinquent taxes follow the mobile home, and a subsequent buyer is liable for the unpaid taxes. The North Carolina Association of Commissioners and the North Carolina Tax Collectors Association support this proposal.